

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Kathryn McDermott & Mark Landeryou

Date application filed with the Town Clerk: August 19, 2009

Nature of request: Request for Special Permit to keep up to five chickens under Section 5.014 of the Zoning Bylaw

Address: 201 East Pleasant Street (Map 11B, Parcel 179, R-G & R-N District)

Legal notice: Published on August 26 and September 2, 2009 in the Daily Hampshire Gazette and sent to abutters on August 24, 2009

Board members: Barbara Ford, Eric Beal, Mark Parent

Submissions:

- Project Application Report, ZBA FY2010-00005, dated September 4, 2009;
- One (1) copy of the ZBA application, filed with the Town Clerk on August 19, 2009;
- One (1) copy of a Management Plan form;
- One (1) copy of a Site Plan;
- One (1) copy of a letter provided by the applicant to neighbors, dated August 5, 2009;
- One (1) copy of a Town GIS location map and one (1) zoning map, submitted by staff;
- One (1) copy of a copy of ZBA FY2009-00040, for reference, submitted by staff.

Site Visit: September 8, 2009

Barbara Ford, Eric Beal and Mark Parent met Kathryn McDermott and Mark Landeryou at the site. The Board members observed the following:

- The location of the existing single family dwelling and detached barn setback several hundred feet from East Pleasant Street;
- The approximate location of the Zoning District line running generally east and west and along the northern edge of the detached barn;
- The approximate location of the proposed coop and pen area along the exterior of the north wall of the detached barn;
- The approximate location of the north property line adjacent to the land of the Hawthorne Farm;
- The location of the property to the south and east of the subject property, including an informal driveway which passes through the separate adjacent lot and exits onto Cottage Street.

Public Hearing: September 10, 2009

Ms. McDermott presented the application. She stated the following:

- They wish to keep up to five chickens, hens only, on the property;
- They are currently keeping chickens in the existing barn and found out that a Special Permit is required;
- They learned that the barn is located in the R-G Zoning District where keeping chickens is not allowed;
- They now propose to construct a coop, exterior to the barn, and located on the portion of the property that is in the R-N District, where keeping chickens is permitted with a Special Permit;
- The coop would be no more than four (4) feet wide, three (3) feet deep and seven (7) feet tall;
- There will be one window on the coop, a hinged roof and fenced pen area extending off the coop;
- The pen area will not be larger than 144 square feet.
- The Management Plan identifies that their house is the closest to the proposed coop, so they have the largest interest in ensuring that there is minimal odor and noise, the feed will be stored in a metal container in the barn and the straw will be removed frequently and composted.

The Board discussed whether electricity would be required in the coop. The applicant said that it is probably not necessary, but would like to reserve the option. The Board determined that if electricity is required, it should be hard wired.

The Board determined that the permit need not expire if the ownership of the parcel changes, but that any new owners should submit a new management plan to the Board for review and approval at a public meeting.

Mr. Parent MOVED to close the evidentiary portion of the public hearing. Mr. Beal seconded and the Board VOTED unanimously to close the public hearing.

Public Meeting:

During the public meeting the Board drafted conditions and findings that would be appropriate if the Special Permit were to be approved.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses. The keeping of livestock or poultry is a use allowed with a Special Permit in the R-N Zoning District. The proposal locates the coop and pen area within the R-N Zoning District. The property is bordered on two (2) sides by land currently in farmland and several conditions would be imposed, such as the utilization of a coop and small run area and storage of feed materials, which would help render the use compatible with nearby residential uses.

10.382, 10.383 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site and will not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians. The permit is conditioned such that there are no roosters allowed. The coop and pen area will not be situated in close proximity to surrounding homes. The Management Plan identifies that any wastes produced by the chickens will be continual removed and/or composted. These steps will help avoid any negative impacts from the presence of chickens in terms of noise and odors.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use. The property contains an existing area along the north side of the barn suitable for the creation of a pen area and coop. The coop and fenced pen area are intended to provide adequate areas for the chickens to roam and roost. Additionally, animal feed is required to be kept in rodent and vermin proof containers inside the existing barn.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes. The permit requires that wastes associated with the use are to be properly composted as listed in the Management Plan.

10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw because it promotes the health safety, convenience and general welfare of the inhabitants of the Town of Amherst. This permit allows for the keeping of up to five (5) chickens, hens only, as a way for the property owner to raise their own eggs. The proposal provides for a coop and pen area located on the portion of the property within the R-N District. The location is separated by the existing barn which reduces potential impacts on adjacent properties to the south and east.

Public Meeting – Zoning Board Decision

Mr. Beal moved to APPROVE the application with conditions. Mr. Parent seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2010-00005, to allow the keeping of up to five (5) chickens, hens only, under Section 5.014 of the Zoning Bylaw, at 201 East Pleasant Street (Map 11B, Parcel 179, R-G & R-N Zoning District with conditions.

BARBARA FORD

ERIC BEAL

MARK PARENT

FILED THIS _____ day of _____, 2009 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2009.

NOTICE OF DECISION mailed this _____ day of _____, 2009
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2009,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2010-00005, to allow the keeping of up to five (5) chickens, hens only, under Section 5.014 of the Zoning Bylaw, at 201 East Pleasant Street (Map 11B, Parcel 179, R-G & R-N Zoning District) with the following conditions:

1. There shall be no more than five (5) chickens (hens, only) on the premises and at no time shall there be any roosters.
2. The coop shall be built substantially in accordance with the design plans submitted and approved by the Zoning Board of Appeals on September 10, 2009. Any substantial changes to the plans shall be submitted and approved by the Zoning Board of Appeals at a public meeting.
3. The location of the coop shall be located along the north side of the barn and only within the portion of the property in the R-N Zoning District, as shown on the plans approved on September 10, 2009.
4. The keeping of chickens shall be in accordance with the Management Plan, revised on September 11, 2009. Any change to the approved Management Plan, including an increased number of chickens, shall be presented to the Zoning Board of Appeals for review and approval at a public meeting.
5. A fenced pen area of no greater than 144 sq. ft., may be erected adjacent to the coop such that chickens exiting the coop can go only into the fenced area. Said fence shall be of a height that is sufficient to contain the chickens, but shall not exceed 5 feet in height.
6. All feed supply not within the coop, shall be kept in rodent and vermin proof containers and shall be stored within the existing barn.
7. Any waste products produced by the use shall either be removed from the property, or properly composted so as to prevent noxious odors.
8. Upon any change in ownership of the property, new owners shall wishing to continue the keeping of poultry on the premises shall present a Management Plan to the Zoning Board of Appeals at a public meeting for review and approval.

BARBARA FORD, Acting Chair
Amherst Zoning Board of Appeals

DATE